

AMENDING TITLE 28 OF THE UNITED STATES CODE TO
INCLUDE THE COMMONWEALTH OF PUERTO RICO

JUNE 26, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. FRAZIER, from the Committee on the Judiciary, submitted the
following

R E P O R T

[To accompany H. R. 9038]

The Committee on the Judiciary, to whom was referred the bill (H. R. 9038) to amend title 28 of the United States Code to provide that the Commonwealth of Puerto Rico shall be treated as a State for proposes of district court jurisdiction based on diversity of citizenship, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows:

Amend the title to read as follows:

To amend title 28 of the United States Code to provide that the Commonwealth of Puerto Rico shall be treated as a State for purposes of district court jurisdiction based on diversity of citizenship.

AMENDMENT

The amendment to the title of H. R. 9038 corrects a typographical error in the spelling of the word "purposes."

GENERAL STATEMENT

H. R. 9038 fills an obvious gap in the law resulting from the change in status of Puerto Rico from a Territory to a Commonwealth. The gap exists in section 1332 of title 28 of the United States Code. This section confers jurisdiction on district courts in diversity of citizenship cases. Among others, it confers jurisdiction in cases between citizens of different States, the Territories, and the District of Columbia where the matter in controversy exceeds \$3,000.

In 1952 Puerto Rico acquired a new constitution. This constitution refers to the "Commonwealth of Puerto Rico." Prior to 1952, there was no doubt that Puerto Rico was a Territory and accordingly was included in section 1332 of title 28. However, since the new constitution refers to the Commonwealth of Puerto Rico, there is doubt of its inclusion. In the case of *Detres et al. v. Lions Building Corporation et al.* (No. 53 C. 1749, Nov. 21, 1955), the United States District Court for the Northern District of Illinois, eastern division, held that Puerto Rico was not included within the meaning of the term "Territories" in section 1332. While it is true that the Seventh Circuit Court of Appeals on June 13, 1956, reversed this decision and remanded the case to the district court, an element of doubt about the matter remains. The Seventh Circuit Court of Appeals held that even though the 1952 constitution refers to the "Commonwealth of Puerto Rico," at the same time it is within the meaning of the term "Territory" in section 1332. The court indicates that there was no intention on the part of Congress to affect the status of Puerto Rico as far as the application of section 1332 was concerned when the new constitution was authorized. To remove any doubts, the House Judiciary Committee favorably reports H. R. 9038 to expressly include the Commonwealth of Puerto Rico in the coverage of section 1332 of title 28 of the United States Code.

DEPARTMENTAL REPORTS

There is made a part of the record at this point reports from the Administrative Office of the United States Courts and the Department of Justice relative to this legislation.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., February 28, 1956.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN CELLER: The bill about which you inquired of me on February 13, 1956 (H. R. 9038), would amend section 1332 of title 28 of the United States Code concerning the jurisdiction of the United States district courts in cases in which there is diversity of citizenship so as to treat the Commonwealth of Puerto Rico as well as the Territories and the District of Columbia as a State in the application of that section. The Judicial Conference has not considered this matter and I am therefore not in a position to express an opinion on the matter of policy involved in the bill.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

APRIL 27, 1956.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 9038) to amend title 28 of the United States Code to provide that the Com-

monwealth of Puerto Rico shall be treated as a State for purposes of district court jurisdiction based on diversity of citizenship.

Section 1332 of title 28, United States Code, gives the district courts original jurisdiction of all civil actions exceeding \$3,000 in amount between (1) citizens of different States; (2) citizens of a State, and foreign states or their citizens and subjects; and (3) citizens of different States and in which foreign states or citizens or subjects thereof are additional parties. Subsection (b) of section 1332 defines "States" as used in the section to include the Territories and the District of Columbia. The bill would amend subsection (b) expressly to include Puerto Rico within the meaning of the word "States" as used in section 1332.

Subsection (b), extending diversity jurisdiction to the District of Columbia and to the Territories, was added to section 1332 in 1940 (62 Stat. 930). The constitutionality of the amendment was challenged. The Supreme Court held, in the case of *National Mutual Insurance Co. v. Tidewater Transfer Co.* (337 U. S. 582), that Congress was within its authority under article I of the Constitution in extending the diversity jurisdiction to the District of Columbia. An interpretation of the reasons assigned by the Supreme Court for upholding the constitutionality of extending diversity jurisdiction to cases in which citizens of the District of Columbia are parties was later held to be equally applicable to cases between citizens of a State and a citizen of the Territory of Hawaii (*Siegmund v. General Commodities Corp.*, 175 F. 2d 952).

Puerto Rico does not fall squarely within the holding in the *Siegmund* case because, while it was a Territory as constituted under the Organic Act of 1917 (see *Benedicto v. West India & Panama Tel. Co.*, 256 Fed. 417), it is now a commonwealth with its own constitution pursuant to the terms of the compact offered to the Puerto Rican people and accepted by them (48 U. S. C. 731b). In *Detres v. Lions Building Corporation* (136 F. Supp. 699), it was held that Puerto Rico is not a Territory as that term is used in 28 U. S. C. 1332 (b). In *Mora v. Mejias* (206 F. 2d 377, 387), the court was considering the application to Puerto Rico of section 2281 of title 28 of the United States Code, which requires a 3-judge court in cases involving an injunction to restrain enforcement of a State statute. The court did not rule upon the point but suggested "careful study and consideration" of the question.

Whether the bill should be enacted involves a question of policy concerning which this Department prefers to make no recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the House of Representatives, there is printed below in roman existing law in which no change is proposed, with matter proposed to be stricken out enclosed in black brackets, and new matter proposed to be added shown in italics:

TITLE 28, UNITED STATES CODE

§ 1332. Diversity of citizenship; amount in controversy.

* * * * *

(b) The word 'States', as used in this section, includes the Territories, [and] the District of Columbia, *and the Commonwealth of Puerto Rico.*

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